

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Omaha
FILE NUMBER: 200460412

REGULATORY PROJECT MANAGER: ERHARDT **Date:** 06/28/2004

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office** Y (Y/N) **Date:** 06/28/2004
At the project site (Y/N) **Date:**

PROJECT LOCATION INFORMATION:
State: North Dakota
County: Burke County
Center coordinates of site by latitude & longitudinal coordinates: Lat: 48-39-35.4459
Long: 102-49-5.2691
Approximate size of site/property (including uplands & in acres): 60.53 acres
Name of waterway or watershed: Lake Sakakawea Watershed

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	4	1		1					
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?					X
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): A review of maps and other available information, including, but not limited to, USGS Topo Quads, FWS NWIs, NRCS Soil Survey and FR with locations of designated critical habitat for the Piping Plover identified was done in conjunction with this jurisdictional determination. Approximately 60.53 acres of property is included in this jurisdictional determination. Located on the parcel are six (6) isolated, intrastate, non-navigable wetland basins. Wetlands are 5.97 acres, 0.16 acre, 1.14 acres, 0.25 acre, 0.27 acre and 0.24 acre for a total of 8.03 acres. Impact of 0.05 acre is anticipated at the 5.97 acre wetland for a wetland and wildlife enhancement project. No tie to interstate commerce can be made other than through migratory birds. The basins are not jurisdictional based on the SWANCC ruling.